

Town of Amherst  
Zoning Board of Appeals - Special Permit  
*DECISION*

**Applicant:** Carolyn and Howard Peelle

**Date application filed with the Town Clerk:** July 21, 2006

**Nature of request:** A Special Permit to construct a two-family, owner-occupied dwelling, under Section 3.321 of the Zoning Bylaw

**Address:** South East Street (Map 20B, Parcel 68, R-N Zoning District)

**Legal notice:** Published on August 7 and August 14, 2006 in the Daily Hampshire Gazette and sent to abutters on August 12, 2006

**Board members:** Tom Simpson, Russ Frank and Jane Ashby

**Submissions:** The petitioner submitted the following information:

- A building location plan, unsigned, dated July 20, 2006 and revised September 10, 2006, showing the proposed landscaping and longer connector link between the two houses;
- A project summary and management plan, received July 25, 2006;
- A letter of support from property owners, James and Ruth Wentworth, dated July 25, 2006;
- A site plan showing the location of the houses and driveway, the connector link joining the houses, and the contour lines of the property, dated August 8, 2006;
- Sets of building plans for the two houses, including elevations on all sides, prepared by Classic Colonial Homes, undated;
- A memorandum from Carolyn Peelle, dated September 8, 2006, addressing four issues that the ZBA asked for clarification for the continued hearing on September 12, 2006;
- A "Request for Determination of Applicability" and a map of wetlands boundaries, submitted to the Conservation Commission by Robert Stover, Amherst Civil Engineering, dated 9/9/06;
- Revised plans for the connector between the two houses, shown from both the north and south elevations, received 9/12/06.

The Zoning staff assistant submitted a memo which summarized dimensional requirements for a two-family structure, driveway requirements and grading requirements of the Zoning Bylaw, dated August 16, 2006.

**Site Visit:** August 21, 2006

The Board met with Carolyn Peelle at the site. They observed the following:

- A large open lot, formerly a hay field, bordered by a row of trees to the north, one home and a farm to the south, and Hop Brook to the east;
- A steady drop in elevation of about 30 feet from South East Street to the bottom of the lot;
- A row of single family homes and a subdivision along the westerly side of South East Street.

**Public Hearing:** August 21, 2006

Carolyn Peelle and Lance Kirley, son-in-law and builder, spoke to the petition at the hearing.

Mr. Kirley made the following statements:

- The lot under consideration is 1.4 acres, or 64,000 square feet;
- They are requesting to build a two-family structure in two stages and on two elevations;
- There would be a connector link between the two dwellings;
- The first phase would be the “barn cottage” and garage at the lower level towards the back of the lot;
- The applicant (Peelle) will live in the barn cottage;
- The second phase will be the construction of the connector and the main residence.
- The Kirley family will live in the main house
- The 30-foot connector will be an open breezeway that will connect the first floor of the cottage to the basement of the main house. That is, the cottage will be one story lower than the house;
- The two dwellings will have separate utilities, and will be connected to Town water/sewer lines;
- Mr. Kirley designed the proposed dwellings. He owns Classic Colonials that designs several hundred dwellings per year.
- Both dwellings will be Federal style clapboard with hip-roofs.
- The connector will have three open ports that will blend with the designs of the house;
- The location of the dwellings is based on the slope of the property and the fact that there are two plateaus on the land, one lower than the other;
- Five retaining walls are proposed in order to deal with the change in slope;
- They do not anticipate bringing in fill because there will be excavations for the basement. The location of the dwellings has been planned in order to avoid using outside fill;
- They have hired an engineer to deal with the grading issues of the site;
- Their intent is to keep the architectural details as shown on the plan;
- The site is a beautiful piece of property and they wish to preserve it as much as possible.

Mr. Simpson asked if the knoll in the front of the property will remain. Mr. Kirley stated that they wish to keep the knoll in the front – it is a barrier that will help to lessen the traffic noise from busy South East Street and will provide some privacy for them.

Ms. Peelle said that they plan to use solar panels for hot water, and to have southern facing windows.

Ms. Peelle also said that she does child care for her daughter, and they wished to live in close proximity to one another and share an extended family living situation.

Mr. Frank noted that the land appeared to be quite wet at the bottom of the lot. The Hop Brook is about 200 feet to the east of the property, and the Flood Prone Conservancy District (FPC) is about 100 feet away from the property. The wetlands boundaries will be addressed by the Conservation Commission in the near future, the petitioner said.

Ms. Ashby asked if the utilities would be underground. The petitioner said yes, all would be underground

There was discussion of the slope of the land, and the need for the retaining walls to accommodate the significant drop in elevation from the west to east. The petitioner said that she took the topographic map from the Town GIS maps and super-imposed it on their plans. They have not had a professional prepare a grading plan to date. It was noted that neither the Fire Department nor the Town Engineer had commented on the driveway slope to date.

Bonnie Weeks, Building Commissioner, had a few comments about the application. First she asked about the area of the buildings and parking lot in relation to the size of the lot. The zoning staff memo indicated that the building and driveway coverage would be about 18% of the lot area; the applicant concurred with that calculation.

Ms. Weeks also indicated that she would need more detailed building plans for both the house and driveway. The applicant said that they are working on them, but are waiting for the closing on the sale of the property.

Mr. Kirley said that the submitted building plans are almost final. If anything were to change, it would be the interior of the main residence. The foot print of the main house would remain as proposed, and the plans for the cottage house will not change.

Mr. Kirley also said that the driveway will be covered with processed gravel, to help with drainage. As for the retaining wall at the back of the main house/garage, it will be 8 feet high. That will be the critical wall which will hold the front house and the connector link together.

Mr. Simpson stated that the Board will need more information before they can make a decision. The Town Engineer and the Fire Department need to comment on the slope of the driveway. Also, it will be necessary to determine the amount of fill from off the property (if any) that will be needed for the grading of the driveway. Or if soil will be taken from the property from the excavations, the Board will need to know that as well. It was noted that there is a 16 foot drop from the front of the main house to the end of the cottage.

Mr. Frank asked if earth will be moved on the site. Ms. Peelle said that there will be two full basements for the two houses, so that the earth from the excavations will be available for grading. Mr. Kirley said that only the driveway will be graded.

Ms. Ashby asked about landscaping plans. She said that trees will give protection from South East Street.

Ms. Ashby made a motion to continue the hearing to September 12<sup>th</sup> at 7:30 p.m. Mr. Frank seconded the motion, and the vote was unanimous to continue the hearing until September 12, 2006, at 7:30 p.m.

#### **Continued Public Hearing** September 12, 2006

Ms. Peelle spoke to the application at the continued hearing. She gave the following information:

- Lance and Lloyd Kirley had re-worked the plans, and now wish to lengthen the connector between the two dwelling units to 40 feet instead of 30 feet.
- The longer connector will lessen the steepness of the driveway.
- A bay (the connector is designed to match the bays of the garages) will be added to the connector, and overall the distance between the two houses will now be 47 feet, which includes the steps from one house to the other.

- The revised site plans of the north and south elevations show the lengthened connector. It is more visible from the south than the north because of the garage for the main house.
- The slope of the driveway now becomes less than 13-14% at the steepest part. By stretching out the connector and the driveway, the slope is less than 10% overall.
- The main house, garage and driveway will be moved up 11 feet to the road.
- Everything else on the site plan will remain the same.
- Proposed landscaping is shown on the plan – a variety of shrubs around the dwellings.
- The submitted memo discusses the meetings the applicant had with the grading engineer and the Town engineer.
- The dwelling will be on Town water/sewer. Sewage will have to be pumped up to the road.
- She sent her memo about the grading of the driveway and other details to both the Town Engineer and the Fire Department. The Town Engineer had no difficulties with their plans, and the Fire Department did not respond.

Mr. Simpson noted that the applicant's memo states that they will neither bring in fill nor remove it from the site. If needed, the builder will take a few feet off the top of the hill.

Mr. Simpson also noted that the height of the main house is 32-34 feet from the base of the house front. However, Section 6.19 of the Zoning Bylaw states that the height is measured from the street level, so that one subtracts the change in elevation from the street to the house location – 10 feet.

Ms. Ashby asked why there are no trees shown on the revised site plan. Ms. Peelle replied that the houses will have solar panels, so they don't want to block the sunlight. Also, the lot was a hayfield for many years, so there are no trees on the land, except all along the northern border. Ms. Ashby said that, in her opinion, trees near the driveway in front would enhance the property.

Mr. Frank noted the results of the wetlands delineation. The map submitted to the Conservation Commission showed a small portion of the land at the south-east corner was within the 200-foot buffer of the Hop Brook, but at least 100 feet away from the proposed building.

Ms. Peelle stated that water drains down to the north-east corner of the lot and goes into a swale there. There also will be a wetland delineation of the small marsh to the north of the lot, but the impact on the lot will most likely be negligible as well.

Ms. Ashby made a motion to close the evidentiary portion of the hearing. Mr. Frank seconded the motion, and the vote was unanimous to close the hearing.

#### **Public Meeting:**

The Board saw no insurmountable problems with the application, and used the meeting time to design conditions for the Special Permit decision.

#### **Findings:**

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380, 10.381 and 10.392 – The proposal is suitably located in the neighborhood and is compatible with existing uses because this is a residential area, a mix of newer and older homes. The applicants have designed their housing units to blend with the slope of the land and the open space to the east.

10.382 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site because the dwellings will be set well back from the street, there is a row of trees the entire length of the property to the north, and there will be some screening to the south planted by the applicants.

10.383 and 10.387 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians and the proposal provides convenient and safe vehicular and pedestrian movement within the site and in relation to adjacent streets because there is a single driveway with substantial parking opportunities for parking and turn-a-rounds within the site. Also one of the conditions of the permit requires that the slope of the driveway be no more than 5% within 50 feet of the street.

10.384 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use because the applicant has adapted the proposal to meet the recommendations and requirements of the Town Engineer, a grading engineer, the Conservation Commission and the Zoning Bylaw for the location of the dwelling units and grading of the driveway.

10.386 – The proposal ensures that it is in conformance with the Parking regulations of the town (two parking places per housing unit), since the proposal shows more than ample parking available on site.

10.389 – The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables and other wastes because the dwelling units will be connected to Town water/sewer, and the Management Plan indicates that the owners will be responsible for weekly pickup of refuse/recyclables.

10.391 – The proposal protects unique or important natural, historic or scenic features because they will not be changing the natural slope of the land except for the driveway, and they plan to keep the historic open character of the lot (a hayfield) as much as possible.

10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting because all exterior lighting will be downcast, screening will exist for adjacent neighbors, and the dwellings will be located below the road elevation.

10.395 – The proposal does not create disharmony with respect to the use, scale and architecture of existing buildings in the vicinity because there is a mix of large and small homes along that portion of South East Street.

10.397 – The proposal provides adequate recreational facilities, open space and amenities for the proposed use because the lot is very large and there will be ample room for a play area for the children. A trail going into the conservation area to the east also abuts the property.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because it protects the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst. It also provides an opportunity for an extended family to share living together.

### **Public Meeting – Zoning Board Decision**

Ms. Ashby made a motion to APPROVE the application, with conditions. Mr. Frank seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to approve a Special Permit for a two-family, owner occupied residence under Section 3.321 of the Zoning Bylaw on the premises at South East Street, (Map 20B/Parcel 68, R-N Zoning District), with conditions, as requested in the application filed by Carolyn and Howard Peelle.

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THOMAS SIMPSON

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RUSSELL FRANK

\_\_\_\_\_  
JANE ASHBY

FILED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2006 at \_\_\_\_\_,  
in the office of the Amherst Town Clerk \_\_\_\_\_.

TWENTY-DAY APPEAL period expires, \_\_\_\_\_ 2006.  
NOTICE OF DECISION mailed this \_\_\_\_\_ day of \_\_\_\_\_, 2006  
to the attached list of addresses by \_\_\_\_\_, for the Board.

NOTICE OF PERMIT or Variance filed this \_\_\_\_\_ day of \_\_\_\_\_, 2006,  
in the Hampshire County Registry of Deeds.

**Town of Amherst  
Zoning Board of Appeals**

*SPECIAL PERMIT*

The Amherst Zoning Board of Appeals hereby grants a Special Permit for a two-family, owner occupied residence under Section 3.321 of the Zoning Bylaw on the premises at South East Street, (Map 20B/Parcel 68, R-N Zoning District), as requested in the application filed by Carolyn and Howard Peelle, subject to the following conditions:

1. Pesticides, herbicides, fertilizers and other leachable lawn and garden chemical shall be used strictly in accordance with Lawn Care Regulations of the Massachusetts Pesticide Board.
2. The outdoor storage of de-icing materials or pesticides, herbicides, fertilizers and other hazardous lawn and garden chemicals for home use is prohibited.
3. The slope of the driveway shall be no more than 5% within 50 feet of South East Street.
4. The driveway shall be 12 feet wide, with two (2) foot shoulders.
5. The addresses of the residences shall be posted near the street level, visible from both directions.
6. The dwellings shall be built according to the plans submitted for the hearing and approved at a public meeting on September 12, 2006.
7. Any changes to the site or building plans shall be presented to the Board at a public meeting for review and approval.
8. All exterior lighting shall be downcast.
9. One of the dwelling units shall be owner-occupied.
10. Privacy screening on the south-west side of the main house and south of the visitor parking are shall consist of at least four trees.
11. No more than 10,000 cubic feet of soil shall be added or taken from the property.
12. This permit is subject to Section 14 of the Zoning Bylaw, Phased Growth. Development authorization is available as of October, 2006 .

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TOM SIMPSON, Chair  
Amherst Zoning Board of Appeals

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DATE